(b) REMARKS

This application has been reviewed in light of the Office Action dated November 9, 2010. Claims 1, 2, 4, 11, 14, 25 and 26 are presented for examination, with claim 1 being in independent form. Favorable reconsideration is requested.

Claims 1, 2, 4, 11, 14, 25 and 26 have been rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 5,994,329 (Daifotis) in view of either U.S. Patent No. 4,817,819 (Kelly) or U.S. Patent No. 5,265,728 (Allendorf) and further in view of Palo Alto Medical Foundation, "Calcium and Nutrition PAMF Patient Health Information," January 2002 (Palo Alto Medical Foundation). Applicants respectfully traverse the rejections.

Prior to addressing the grounds of rejection, Applicants wish to briefly review certain features and advantages of the present invention. The invention is related to a kit for promoting the proper sequential and continuous oral administration of a bisphosphonate and an accompanying nutrient over a 28 day period of time. The kit contains 4 unit doses of the bisphosphonate, wherein each dose is to be given once a week; 24 unit doses of a nutrient selected from the group consisting of calcium, vitamin D, calcium and vitamin D, and a combined unit dose of calcium and vitamin D, and unit doses of calcium are about 400 mg to about 1500 mg of elemental calcium per day and unit doses of vitamin D are about 100 IU to 10,000 IU per day; and a blister card containing the unit doses, which are arranged in order of their use across the blister card. Further, the kit combines administration of an active with a nutrient while it provides a means wherein simultaneous dosing of the bisphosphonate and the nutrient is avoided. This combined administration increases the benefits achieved by the treatment since osteoporosis treatments are less effective in individuals with calcium and vitamin D deficiency.

The subject kit also increases patient compliance and ease of administration. Whereas with conventional kits, patients may forget or simply not follow instructions regarding when to take the active versus when to take the nutrient, with the subject invention, administration is simplified and clarified. Still further, since bisphosphonate and calcium should not be taken at the same time because the calcium interferes with absorption of the active (page 2, lines 28-38), the kit clearly teaches patients to take the accompanying nutrient on days only when not taking the active, thereby avoiding any problems associated with simultaneous dosing. *Id.* This is a considerable advancement over the prior art.

The advantages and nonobviousness of the present invention is supported by the Declaration Under 37 C.F.R. § 1.132 of Stefan Van Der Geest (the "Declaration"), which is submitted herewith. As explained therein, there is a problem in the field of osteoporosis treatment, wherein, despite the benefits of taking calcium and vitamin D in combination with bisphosphonate treatment to ensure sufficient availability of calcium for bone matrix mineralization, calcium homeostasis and avoidance of secondary hyperparathyroidism, only about 60% of bisphosphonate users currently take a calcium-containing supplement. In addition, 1 in 5 postmenopausal osteoporotic women take their calcium-containing nutrient and/or other medication incorrectly in relation to the bisphosphonate. It is a prevailing problem that patients often do not comply with the dosing instructions, and therefore, receive often significantly reduced benefit from the treatment. In fact, when a bisphosphonate is taken concurrently with a calcium product, the bisphosphonate is completely ineffective. Accordingly, correct administration of bisphosphonates is essential to successful treatment of osteoporosis.

As further explained in the Declaration, there is a need to create a better method and type of administration to increase the number of patients taking a combined treatment of bisphosphonate and a calcium-containing supplement, and the number of patients taking this combination correctly. Further, a method or administration is needed for patients that is less dependent on instructions by physicians, complex dosing instructions and information sheets.

The claimed invention addresses these needs and is specifically invented and designed to facilitate correct dosing to increase the likelihood that postmenopausal osteoporotic patients will receive both a calcium-containing nutrient and risedronate, thereby providing better treatment to patients in need. The present invention does not contain a calcium-containing tablet on the day of the bisphosphonate intake but, for the rest of the week, it contains 6 (or 12) calcium-containing tablets.

In the Declaration, Stefan Van Der Geest explains the details of a study he conducted to determine the advantages of the present invention. For one, the study demonstrated that the instructions for administering the kit of the present invention are more easily understood than separate packs of bisphosphonate and calcium-containing supplement, and, therefore, the doses are properly administered and the benefits of treatment greatly increased. The kit of the present invention was preferred by the participants of the study, over the same medication from separate packs. Participants better understood the dosing instructions and patients are, therefore, more likely to comply with the instructions and benefit from treatment.

The significant benefits of the claimed invention are, at least: 1) a treatment regimen that includes calcium-containing supplementation with prescription medicine, which increases the probability that patients will receive both calcium (with or without

vitamin D) and risedronate; and 2) improved patient understanding of dosing regimen to avoid incorrect intake, thereby leading to optimal absorption of risedronate and calcium (with or without vitamin D).

Accordingly, the kit of the present invention meets a need in the market and leads to significantly superior results in the treatment of osteoporosis in patients taking bisphosphonates.

Daifotis is directed toward a method for inhibiting bone resorption employing a bisphosphonate according to a continuous schedule. As acknowledged by the Examiner, Daifotis fails to teach or suggest a blister pack as disclosed in the present invention. In addition, while Daifotis discloses the use of a bisphosphonate according to varying dosing schedules, it fails to specifically recite or suggest, by way of example, any regimens administering doses of a nutrient, and fails to teach or suggest the amount of calcium or other nutrient that might be administered in unit doses in the kit. At column 13, lines 61-65, Daifotis discloses a list of possible additional dosages to the kit, including calcium, as a potential memory aid, however, it fails to specifically identify vitamins, or, more specifically, vitamin D.

Daifotis simply fails to teach or suggest the kit of the present invention and fails to appreciate the benefits achieved by the present invention as explained above and in the Declaration. Therefore, for all of the reasons set forth above, Applicants submit that Daifotis fails to render the presently claimed invention obvious.

Kelly and Allendorf fail to remedy the deficiencies of Daifotis. Both Kelly and Allendorf are cited by the Examiner for teaching blister packs for storing and dispensing tablets. However, neither of the references teach administration of unit doses of an accompanying calcium, vitamin D, or a nutrient of any kind. They merely teach that

seven tablets in the blister pack might be a placebo or non-active tablet. Further, there is clearly no disclosure or suggestion of the amount of calcium, or vitamin D to be administered in the unit doses as presently claimed, e.g., about 400 mg to about 1500 mg of elemental calcium per day and about 100 IU to 10,000 IU per day.

Still further, neither Kelly nor Allendorf teach or suggest the importance of correct dosing of the bisphosphonate and the nutrient, as fully explained in the Declaration, avoidance of simultaneous daily dosing, or the advantages and superior results achieved by using the kit of the present invention. Therefore, Applicants respectfully submit that Daifotis, Kelly and Allendorf, in any permissible combination, fail to render the present invention obvious.

Palo Alto Medical Foundation fails to remedy the deficiencies of Daifotis, Kelly and Allendorf. This reference is cited by the Examiner for disclosing the recommended doses of calcium and vitamin D. However, the Examiner acknowledges that Palo Alto Medical Foundation fails to disclose a kit. It only teaches information on these supplements for patient health, including recommended daily doses. Therefore, Palo Alto Medical Foundation fails to specify a kit containing an active ingredient, and fails to offer any guidance on the dosing of the active in relation to the supplement and the benefits that may be achieved by a kit whereby simultaneous dosing is avoided. Accordingly, Applicants respectfully submit that Daifotis, Kelly, Allendorf and Palo Alto Medical Foundation, in any permissible combination, fail to render the present invention obvious and respectfully request withdrawal of the § 103 rejections.

In view of the foregoing amendments and remarks, favorable reconsideration and passage to issue is earnestly requested. Should the Examiner believe that issues remain outstanding, the Examiner is respectfully requested to contact

Applicants' undersigned attorney in an effort to resolve such issues and advance the case to issue.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

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